

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)
)
)
vs.) **Criminal Action No. 10-00099-KD-N**
)
)
FILI KOITE,)
Defendant.)

ORDER

This matter is before the Court on the Defendant's "Motion for Review of Detention Order Pursuant to Title 18 U.S.C. § 3145(b)" (Doc. 21) -- which the Court construes as an Appeal of the Order of Detention -- and the Government's Response (Doc. 24).

In the Order of Detention, Magistrate Judge Nelson found that given the evidence presented at the hearing, the Defendant poses a serious risk of nonappearance, noting that because of his tenuous ties to the United States there are no conditions or combination of conditions that will reasonably assure his appearance. (Doc. 19).

Pursuant to the Local Rules for the Southern District of Alabama, the District Court reviews an order of detention *de novo*. See LR 72.5(a)(3); United States v. Hurtado, 779 F.2d 1467 (11th Cir. 1985). The Bail Reform Act, 18 U.S.C. § 3141, governs the release and detention of a defendant prior to trial. Pursuant to 18 U.S.C. § 3142(f)(2)(A), the Government may move for detention in a case that involves "a serious risk that such person [the defendant] will flee." When considering pre-trial detention, the Court must decide whether there are conditions of release that will reasonably assure the appearance of the defendant and protect the safety of any other person or the community. See 18 U.S.C. § 3142(e). Factors relevant to this inquiry are: 1) the nature and circumstances of the offense, 2) the weight of the evidence, 3) the history and characteristics of the defendant, and 4) the

nature and seriousness of the danger posed by the defendant's release. See 18 U.S.C. § 3142(g).

On June 3, 2010, the Magistrate Judge held a detention hearing. At that time, the Defendant's primary contention was that he should be released pending trial because he was facing only probation if convicted. However, based on the Government's accusations, the Defendant's guidelines would not provide for a sentence of probation.

The Court has conducted a *de novo* review of the pleadings and the taped recording of the detention hearing. The Court concludes that the Magistrate Judge's Order of Detention should be affirmed. Accordingly, the Court hereby **AFFIRMS** the Magistrate Judge's decision to detain the Defendant pending trial, such that the Defendant's motion (Doc. 21), construed as an Appeal, is **DENIED**.

DONE and **ORDERED** this the 17th day of **June 2010**.

/s/ Kristi K. DuBose _____
KRISTI K. DUBOSE
UNITED STATES DISTRICT JUDGE